

SIGNED.

Dated: September 27, 2011



*James M. Marlar*

James M. Marlar, Chief Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

In re: ) Chapter 11  
KAUFMAN CRAYCROFT GARDENS, ) No. 4:11-bk-13209-JMM  
LLC, )  
Debtor. ) **MEMORANDUM DECISION**

Before the court is an attempt, by the Debtor, to confirm a plan (ECF No. 59). The court heard testimony on July 26 and September 26, 2011, and considered all evidence submitted by the parties.

The Debtor is a single-asset real estate entity, consisting of a 101-unit apartment building. Its schedules list the value of the building at \$1.5 million, but the parties have indicated the value may be in the \$2.2 million range.

MidFirst Bank is a secured creditor with a lien securing a debt of over \$5.5 million. It made the § 1111(b) election. It contends the Debtor's plan is not feasible, and that it is not being treated fairly or equitably.

The court agrees, that on the evidence presented, the plan presented is not feasible. The court cannot confirm a speculative plan. Acequia, Inc. v. Clinton (In re Acequia, Inc.), 787 F.2d 1352 (9th Cir. 1986). The current plan is too speculative and uncertain to be credible. Because the Debtor cannot overcome the § 1129(a)(11) hurdle, it is unnecessary to consider any of the other elements of §§ 1129(a) and (b).

1                   Accordingly, confirmation of the Debtor's plan will be DENIED and all stays will be  
2 lifted (ECF No. 29).

3                   Separate orders will be entered. Any aggrieved party has 14 days to appeal.  
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5                   DATED AND SIGNED ABOVE.  
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7 To be NOTICED by the BNC ("Bankruptcy Noticing Center") to:

8 Eric Slocum Sparks, Attorney for Debtor

9 Jonathan M. Saffer, Attorney for MidFirst Bank.

10 Office of the U.S. Trustee  
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